Hovsepian v. Apple, Inc. Doc. 299

RACHEL KREVANS (CA SBN 116421)
MATTHEW I. KREEGER (CA SBN 153793)
JASON A. CROTTY (CA SBN 196036)
DAVID M. HYMAS (CA SBN 226202)
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: 415.268.7000
Facsimile: 415.268.7522
RKrevans@mofo.com
MKreeger@mofo.com
JCrotty@mofo.com
DHymas@mofo.com

Attorneys for Defendants
ECHOSTAR SATELLITE LLC AND
ECHOSTAR TECHNOLOGIES CORP.

VICTOR G. SAVIKAS (CA SBN 145658)
LOUIS TOUTON (CA SBN 102380)
KEVIN G. McBRIDE (CA SBN 195866)
JONES DAY
555 South Flower Street, Fiftieth Floor
Los Angeles, California 90071
Telephone: 1.213.489.3939
Facsimile: 1.213.243.2539
vgsavikas@jonesday.com
lltouton@jonesday.com
kgmcbride@jonesday.com

Attorneys for Defendant
THE DIRECTV GROUP, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

In re

ACACIA MEDIA TECHNOLOGIES CORPORATION

Case No. 05-CV-1114 JW
MDL No. 1665

[PROPOSED] ORDER GRANTING THE SATELLITE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OF INVALIDITY OF THE '992, '863, AND '720 PATENTS

Date: TBD
Time: TBD
Courtroom: 8, 4th Floor
Judge: Hon. James Ware

Dockets.Justia.com

Defendants EchoStar Satellite LLC, EchoStar Technologies Corp., and The DIRECTV Group, Inc. (the "Satellite Defendants") have moved for summary judgment of invalidity regarding the claims asserted against them by Plaintiff Acacia Media Technologies Corporation. Specifically, Acacia continues to assert U.S. Pat. No. 5,132,992 Claims 41 and 45; U.S. Pat. No. 5,550,863 Claims 17-19; and U.S. Pat. No. 6,002,720 Claim 11 against the Satellite Defendants. Upon consideration of the papers filed in support of and in opposition to the Satellite Defendants' motion for summary judgment, the arguments of counsel, and the relevant papers and pleadings in this action, for good cause this Court GRANTS the Satellite Defendants' invalidity motion.

IT IS ORDERED THAT:

The Court **GRANTS** the Satellite Defendants' Motion For Summary Judgment of Invalidity of the '992, '863, And '720 Patents. The Satellite Defendants have demonstrated that there are no disputed issues of material fact regarding the validity of the above claims and that they are entitled to judgment as a matter of law that each of these claims fails the written description and enablement requirements of 35 U.S.C. § 112, ¶ 1 for the following reasons:

1. Claims 41 and 45 of the '992 patent, 17-19 of the '863 patent, and 11 of the '720 patent fail the written description requirement because there is insufficient description of a method of transmitting information that is not responsive to user requests;

2. Claims 41 and 45 of the '992 patent fail the written description requirement because there is insufficient description of "storing items having information in a source material library";

3. Claims 41 and 45 of the '992 patent fail the written description and enablement requirements because there is insufficient description of "retrieving the information in the items from the source material library";

4. Claims 17-19 of the '863 patent fail the written description and enablement requirements because there is insufficient description of "inputting an item . . . into the transmission system"; and

5. Claim 11 of the '720 patent fails the written description and enablement requirements because there is insufficient description of a "subscriber selectable receiving station".

Within 30 days from the date of this order, the parties are **DIRECTED** to submit a joint case management statement regarding further scheduling in this case.

Dated:

By: ____________________________

JAMES WARE
United States District Judge